



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter 1

[WC Docket No. 18-89; DA 21-607; FR ID 31200]

Wireline Competition Bureau Seeks Comment on Secure and Trusted Communications Networks Reimbursement Program Application Filings and Process

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for comments.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) seeks comment on the proposed application filing process for the \$1.9 billion Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program). The Bureau also seeks comment on proposed information fields to be collected on forms eligible providers of advanced communications services will be required to submit to request funding allocations and disbursements from the Reimbursement Program.

DATES: Comments due by June 23, 2021.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may submit comments, identified by WC Docket No. 20-89, and must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings at its headquarters. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Christopher Koves, Wireline Competition Bureau, 202-418-7400 or by emailing supplychain@fcc.gov. The Commission ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530. For additional information on this matter, please email supplychain@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's document (*Public Notice*), in WC Docket No. 18-89; DA 21-607, released May 24, 2021. Due to the COVID-19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following Internet address: <https://www.fcc.gov/document/wcb-seeks-comment-supply-chain-reimbursement-program-procedures>.

I. INTRODUCTION

1. By the Public Notice, the Wireline Competition Bureau (Bureau) provides additional details and seeks comments on the proposed application filing process for the Reimbursement Program. The Bureau also seeks comments on proposed information fields to be collected on forms eligible providers of advanced communications services will be required to submit to request funding allocations and disbursements from the Reimbursement Program.

II. DISCUSSION

2. *FCC Form 5640 - Application Request for Funding Allocation and Reimbursement Claim Requests*. The Commission describes the proposed approach to process and review application requests for funding allocations submitted by applicants and reimbursement claim requests submitted by

participants. The Commission proposes to issue Reimbursement Program funding allocations to eligible providers based on the estimated costs identified in their application for the removal, replacement, and disposal of eligible covered communications equipment and services. The Commission also proposes to periodically release public notices announcing grants of funding allocations. As provided by the Commission's rules, once an allocation is granted recipients can then request and receive funding disbursements by filing a Reimbursement Claim Request showing actual expenses incurred. Further, per the Commission's rules, Reimbursement Program recipients must file an initial Reimbursement Claim Request within one year after the grant of a funding allocation. Recipients also have one year from the first disbursement of funds to complete the permanent removal, replacement, and disposal of covered communications equipment or services. While there are additional filings associated with the Reimbursement Program, for example, status updates, spending reports, extension requests, and a final certification of project completion, the Public Notice focuses on the Application Request for Funding Allocation and the Reimbursement Claim Request. After reviewing the comments received in response to the Public Notice, the Commission will release a final public notice announcing the filing requirements and the information to be reported in these filings.

3. *Application Request for Funding Allocation.* The Bureau is developing an online portal through which applicants and recipients would electronically submit all filings related to the Reimbursement Program, including the Application Request for Funding Allocation. The Bureau also proposes to utilize a version of the previously developed Reimbursement Fund Administration System (RFAS) to process requests and coordinate interactions between program participants, the Fund Administrator (Ernst & Young LLP), and the Bureau. Attached to the Public Notice as Appendix A are the information fields the Bureau proposes to collect from providers seeking a funding allocation from the Reimbursement Program through an Application Request for Funding Allocation including identifying information, program eligibility information, allocation information, and program analysis information. The Commission seeks comments on these information fields and ask whether any of this information should not be required. Are there additional information fields applicants should be required to provide?

4. As required by the Secure Networks Act and the Commission's rules, the Application

Request for Funding Allocation requires applicants to submit an initial estimate of costs reasonably incurred for the permanent removal, replacement, and disposal of covered communications equipment or services. While the Commission prefers that applicants submit estimates based on detailed engineering analysis and vendor quotes, applicants may, per the Commission's rules, rely upon the predetermined estimated costs identified in the final Catalog made available by the Bureau. The Bureau plans to subsequently announce the adoption of the final Catalog in a forthcoming public notice. The final Catalog will contain a list of many, but not necessarily all, of the relevant expenses.

5. For purposes of reviewing initial estimated costs, the Commission proposes to base its evaluation on the average between the minimum and maximum costs listed in the cost estimate range for a particular itemized expense listed in the Catalog, rather than allowing applicants to choose any amount within the cost estimate range. The Commission believes allowing applicants to select a cost within the range would inevitably lead to the selection of the maximum amount in the range and could result in a substantial overestimation of costs upon which allocations are based, to the detriment of the Reimbursement Program and other participants. By using the average cost estimate, the Commission can mitigate this concern as well as reduce the administrative burden on applicants. However, if an applicant finds a Catalog cost estimate average does not fully account for its costs or a cost category is not identified in the Catalog, the applicant, in accordance with the Commission's rules, can instead provide its own individualized cost estimate. Applicants providing individualized cost estimates would be required to submit additional supporting documentation (e.g., vendor quotes) and certify the cost estimate is made in good faith, as required by the Commission's rules. The Commission proposed approach to use the average cost estimate from the Catalog balances the Commission's goals of protecting against waste, fraud, and abuse while facilitating the production of estimates of costs reasonably incurred by applicants. The Commission seeks comments on these proposals.

6. The Commission further proposes requiring applicants to identify in their application for each location site: (1) where covered communications equipment or services are located (e.g., address, longitude and latitude, etc.) and documentation supporting the acquisition/existence of such covered equipment or services; and (2) the itemized cost estimates, taken from the Catalog where applicable, that are associated with the removal, replacement, and disposal of covered equipment or services at each site.

The Commission also proposes allowing applicants to report in their applications non-site specific cost estimates, that is, network-wide costs that apply to several site locations such as disposal costs or software upgrades. To facilitate application preparation and ease the filing burden on applicants, the Commission will evaluate the use of batch uploads to allow applicants to provide and generate site-specific information in the application. The Commission seeks comments on these proposals.

7. Applicants are required to provide certifications pursuant to section 4(d)(4) of the Secure Networks Act and § 1.50004(c) of the Commission's rules, 47 CFR 1.50004(c), and a plan and specific timeline for the removal, replacement, and disposal of the covered communications equipment or services. Applicants are also required by the Commission's rules to certify in good faith that: "(A) it will reasonably incur the estimated costs claimed as eligible for reimbursement; (B) it will use all money received from the Reimbursement Program only for expenses eligible for reimbursement; (C) it will comply with all policies and procedures relating to allocations, draw downs, payments, obligations, and expenditures of money from the Reimbursement Program; (D) it will maintain detailed records, including receipts, of all costs eligible for reimbursement actually incurred for a period of 10 years; and (E) it will file all required documentation for its expenses."

8. The Commission proposes to require applicants to obtain or utilize an FCC Registration Number (FRN) issued by the Commission Registration System (CORES) to access the online filing portal to file a Reimbursement Program application. An FRN is an identifying number that is assigned to entities doing business with the Commission. The Commission also proposes to require applicants to register with the System for Award Management (SAM) and provide the SAM Commercial and Government Entity (CAGE) Code in their applications. SAM is a government-wide application that collects, validates, stores, and disseminates business information about the federal government's contracting partners in support of federal awards, grants, and electronic payment processes. Registration in the SAM provides the Commission with an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Digital Accountability and Transparency (DATA) Act. The Commission also proposes to require applicants to provide in their application a Data Universal Numbering System (DUNS) number or where applicable, the DUNS+4 number, which provides banking information to assist the Commission in the electronic payment of funds

to program recipients. The Commission seeks comment on these proposals.

9. *Filing Window.* Per § 1.50004(b) of the Commission’s rules, 47 CFR 1.50004(b), the Bureau “shall announce the opening of an initial application filing window for eligible providers seeking to participate in the Reimbursement Program.” The Bureau is required to “treat all eligible providers filing an application within any filing window as if their applications were simultaneously received” and “[f]unding requests submitted outside of a filing window will not be accepted.” Thus, applications submitted after the filing window closes are considered untimely and will not be accepted. Once the filing window opens, the Commission proposes to allow applicants consisting of multiple subsidiaries or affiliates to choose to file at either the holding company-level or by individual subsidiary or affiliate. While the filing window remains open, applicants will be able to initiate, save, submit, and make changes to submitted applications until the filing window closes. The Commission seeks comments on these proposals.

10. *Reviewing Applications Post-Filing Window Closure.* Consistent with the Secure Networks Act the Commission’s rules require the Bureau to approve or deny “applications to receive a funding allocation . . . within 90 days after the close of the applicable filing window.” The Commission proposes that during this 90-day period, the Fund Administrator will review each application to assess whether the application is complete, the applicant is eligible for the Reimbursement Program, and the reasonableness of the cost estimates provided by the applicant. The Commission proposes requiring the Fund Administrator to identify potentially duplicate and otherwise erroneously filed applications and to advise the Bureau on its findings. After considering the Fund Administrator’s initial findings, the Commission proposes having the Bureau next issue a public notice announcing those applications initially found eligible and accepted for filing, and those deemed materially deficient. Initial findings that an application is eligible and accepted for filing would provide no guarantee that the applicant will ultimately be determined eligible by the Bureau or will receive a funding allocation or disbursement. Pursuant to the Commission’s rules, applicants that submitted applications initially deemed materially deficient would then have 15 days to cure their defects before their application is denied. The Commission proposes beginning the 15-day cure period the day after the Bureau releases a public notice announcing applications as acceptable for filing. The Commission seeks comments on these proposals.

11. The Commission also proposes having the Fund Administrator evaluate the gross cost estimate demand contained in all applications found acceptable for filing to assist the Bureau in determining whether estimated demand exceeds available funding. If estimated demand exceeds available funding, the Commission directed the Bureau to prioritize funding and application processing in accordance with the Commission's rules. The Commission anticipates that the Fund Administrator's initial application evaluation will *not* involve an in-depth review of the reported cost estimates in order to more quickly determine the gross demand figure. The Commission comments on this approach.

12. Per the Commission's rules, the 90-day application review period commences after the close of the applicable filing window. The Commission will also have the Fund Administrator advise the Bureau on whether, based on the number of applications filed during the filing window, to extend the 90-day deadline for granting or denying applications, and seek comment on this approach.

13. *Funding Allocation.* The Bureau proposes to periodically release public notices announcing recipients selected for funding allocations and the amount of their funding allocation. The Commission proposes treating this public notice as official Bureau approval of a Reimbursement Program application. The Commission also proposes to notify recipients directly of their funding allocations by email. The Commission seeks comments on these proposals.

14. As directed by the Commission in the *Second Report and Order*, 86 FR 2904 (Jan. 13, 2021), "the funding amount allocated represents the maximum amount eligible for draw down by an eligible provider unless a subsequent funding allocation is made." Accordingly, once the Bureau makes a funding allocation determination, the Bureau will not adjust the funding allocation amount even if there is a change in the participant's plans or if actual costs exceed estimated costs. To the extent a participant requires additional funding in excess of its allocated amount, the participant would need to file a new application if an additional filing window is announced

15. *Reimbursement Claim Request.* The Commission outlines its proposed approach to process recipients' requests for reimbursement. Following the approval and issuance of a funding allocation, a recipient may, as provided by the Commission's rules, file a Reimbursement Claim Request for the draw down disbursement of funds from the recipient's funding allocation. Pursuant to the Commission's rules, a recipient must file an initial Reimbursement Claim Request within one year

following the approval by the Bureau of a funding allocation. The Bureau proposes to collect the information reflected in Appendix B of the Public Notice from recipients filing a Reimbursement Claim Request including identifying information, program eligibility information, allocation information, and program analysis information. The Commission seeks comments on the information fields included in the proposed Reimbursement Claim Request. Is this sufficient information for applicants to provide? Are there additional information fields the Commission should include?

16. Pursuant to the Commission's rules, the recipient must show in the Reimbursement Claim Request "actual expenses reasonably incurred for the removal, replacement, and disposal of covered communications equipment or service." Consistent with the *Second Report and Order*, 86 FR 2904 (Jan. 13, 2021), the Commission proposes requiring recipients' Reimbursement Claim Requests to include supporting documentation including invoices and other cost documentation to obtain reimbursement funds from their allocation. The Commission proposes allowing recipients to submit multiple Reimbursement Claim Requests as they incur expenses throughout the reimbursement period. The Commission directed the Bureau to "review reimbursement claims to ensure that disbursements are made only for costs reasonably incurred." The Commission proposes having the Bureau, with the assistance of the Fund Administrator, review and grant or deny Reimbursement Claim Requests for actual costs reasonably incurred and seeks comments on this approach.

17. The Commission proposes to have the online filing system carry forward the itemized initial cost estimates identified by the applicant in its Application Request for Funding Allocation, and that recipients be required to link actual costs incurred and the supporting invoice documentation to these itemized initial cost estimates. Recipients will be required to submit invoices through the online portal as attachments to a recipient's Reimbursement Claim Request. With each invoice uploaded, the Commission proposes requiring the recipient to provide specific details related to the invoice (vendor name, date issued, description of contents, etc.) to assist reviewers in linking invoices to specific itemized cost estimates. Also, while not required at the funding allocation stage for those relying on the Catalog, the Commission proposes requiring recipients seeking disbursements to provide vendor and supplier quotes with the Reimbursement Claim Request. The Fund Administrator will review the quote and the associated invoice to evaluate the reasonableness of the reimbursement claim. The Commission

anticipates that this will ensure Reimbursement Program funding is spent as intended and avoid reimbursement for duplicative costs. The Commission seeks comments on these proposals.

18. Pursuant to the Commission's rules, recipients are required to file all Reimbursement Claim Requests no later than 120 days following the expiration of the one-year removal, replacement, and disposal term. Prior to the expiration of the 120-day deadline, recipients are permitted to request and will receive an automatic 120-day extension. Further, as required by the Commission's rules, after the expiration of the deadline, any allocated but unclaimed funds will revert automatically to the Reimbursement Program for reallocation to other participants pursuant to a future filing window. If a petition for an extension of the removal, replacement, and disposal term is pending when the term expires, then the Commission proposes staying the automatic reversion of the unallocated funds until the Commission acts on the extension request. The Commission seeks comments on this approach.

19. *Amendments, Modifications, and Administrative Updates.* Because a provider's circumstances and plans may change over the course of the program, the Commission proposes to allow participants to amend, modify, and/or file administrative updates. The Commission proposes to subject amendment and modification requests to review by the Fund Administrator and action by the Bureau. The Commission proposes to deny, as a general matter, amendment requests to an Application Request for Funding Allocation that would result in an increase to the total cost estimate. Denying amendment requests that would increase the total cost estimate would ensure that fluctuating cost estimates during the funding allocation review process do not negatively impact the Commission's ability to assess overall demand versus available funding. The Commission seeks comments on these proposals.

20. Following the grant of an Application Request for Funding Allocation, the Commission proposes to allow recipients to submit modification filings to change itemized expenses and locations identified on their filings. While such modifications may in fact change the cost of the project, as directed by the Commission in the *Second Report and Order*, 86 FR 2904 (Jan. 13, 2021), the Commission will not alter the funding allocation issued. The Commission also proposes allowing participants to file administrative updates for routine, non-material changes to filings such as changes to the applicant's contact information (e.g., address, phone number, and contact name). The Commission proposes enabling the online filing system to automatically grant administrative updates once filed. The

Commission seeks comments on these proposals.

21. *Notification of Changes in Ownership.* Because the Reimbursement Program will be administered over multiple years, the Commission proposes adapting the online filing system to account for the possibility that changes in ownership due to mergers and acquisitions may change the identity of a recipient for which an allocation was issued and for which disbursement claims are needed and seek comment on this approach. The Commission does not propose requiring a prior approval process for such ownership changes for purposes of the Reimbursement Program. Instead, the Commission will institute a streamlined process whereby, post-consummation, a notification would be filed by the recipient of record, that is signed by both parties to the transaction, and that includes an attachment explaining the ownership changes. The Bureau, with the assistance of the Fund Administrator, could then determine how best to reflect these changes in the filing system to avoid problems associated with determining what allocation remains unclaimed and how to handle transactions involving the acquisition of discreet network components. The Commission seeks comments on these proposals.

22. *Public Search Portal and Confidentiality.* Consistent with its rules, the Commission will make publicly available, through an online search portal, general and summary information submitted by Reimbursement Program participants. As contemplated by the *Second Report and Order*, 86 FR 2904 (Jan. 13, 2021), however, the Commission will consider presumptively confidential all detailed accounting information about the covered communications equipment or services removed, replaced, and disposed, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds, and the Commission plans to withhold such disaggregated information from routine public inspection. The Commission will also treat as presumptively confidential and withhold from public inspection information such as “location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment and service; and any other provider specific information.” The Commission found that “this information would likely qualify as trade secrets under the [Freedom of Information Act].”

23. The Commission likewise proposes to treat as presumptively confidential and withhold from public inspection vendor price quotes submitted with the Application Request for Funding Allocation and invoices submitted with the Reimbursement Claim Requests, including itemized

information on expenses actually incurred. The Commission also proposes to treat as presumptively confidential and withhold from public inspection the specific timeline for the permanent removal, replacement, and disposal of covered communications equipment and services. The Commission proposes allowing filers to upload attachments to the online portal and categorize whether the attachment is confidential or public. The Commission proposes to withhold from routine public inspection, subject to the Commission's rules, attachments designated as "confidential." The Commission seeks comments on these proposals.

24. In addition to the approach proposed above, the Commission seeks comments on the extent to which the Bureau should treat additional information fields on the Application Request for Funding Allocation in Appendix A and the Reimbursement Claim Request in Appendix B as presumptively confidential and not subject to public disclosure. If so, the Commission invites parties to specify which information fields should be deemed presumptively confidential and the legal basis for the presumption.

25. *Treasury Offset.* The U.S. Department of the Treasury (Treasury) has a number of collection tools, including the Treasury Offset Program (TOP), whereby it collects delinquent debts owed to federal agencies and states by individuals and entities, by offsetting those debts against federal monies owed to the debtors. Reimbursement Program participants owing past-due debt to a federal agency or a state may have all or part of their disbursement payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, an entity is notified of the debt owed, including repayment instructions. If the referred debt of a Reimbursement Program participant remains outstanding at the time of a disbursement payment from the Reimbursement Program to that participant, the participant will be notified by Treasury that some or all of its payment has been offset to satisfy an outstanding federal or state debt. Program participants that owe past due federal or state debts that have been referred to Treasury are encouraged to resolve such debts prior to submitting their Application Request for Funding Allocation. The Bureau lacks discretion to deviate from the requirements of the TOP.

26. *Red Light Rule.* The Commission proposes to waive the Commission's "red light" rule with respect to applications filed in the Reimbursement Program and seek comment on this approach. As part of the collection and disbursement rules associated with the Debt Collection Improvement Act of

1996, the Commission may withhold action on applications and requests made by any entity found to be delinquent in its debt to the Commission until full payment or resolution of such debt. This is commonly referred to as the Commission's "red light" rule. Given the importance of removing communications equipment and service that poses a national security risk from the Commission Nation's networks as soon as possible, the Commission finds extremely unusual circumstances exist to justify waiving the red light rule to allow Reimbursement Program recipients to receive funding allocations and disbursements notwithstanding an outstanding delinquency with the Commission. Any waiver would not affect the Commissions' right or obligation to collect any debt owed by an applicant by any other means available to the Commission, including by referral to the Treasury for collection.

27. *Do Not Pay.* Before releasing any Reimbursement Program funds to participants, the Commission proposes the Bureau and/or Fund Administrator, in coordination with the Commission's Office of Managing Director (OMD), conduct a thorough review of the federal Do Not Pay system Database to verify an applicant's eligibility for payments and awards. Pursuant to the Payment Integrity Information Act of 2019 (PIIA), the Commission is required to review applicable federal databases to Determine eligibility for federal funds to prevent improper payments. The Treasury's Bureau of the Fiscal Service administers the Do Not Pay system database. If an applicant is prohibited from receiving payment of federal funds pursuant to the Do Not Pay system, the Bureau and/or Fund Administrator will withhold funding allocations and disbursements from the Reimbursement Program. The Commission proposes having the Bureau and/or Fund Administrator offer the participant an opportunity to cure any Do Not Pay issues if the recipient can produce evidence that its listing in the Do Not Pay system should be removed. However, the Commission proposes requiring the participant to be responsible for working with the relevant agency to correct its information before a Reimbursement Program payment will be issued by Treasury.

III. PROCEDURAL MATTERS

28. *Paperwork Reduction Act of 1995 Analysis.* This document contains proposed new information collection requirements. The Commission has, pursuant to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13, published a notice in the Federal Register seeking comment on the new

information collection requirements contained in this Public Notice. *See* 86 FR 22050, Apr. 26, 2021.

The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

FEDERAL COMMUNICATIONS COMMISSION.

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